



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/044,651	01/10/2002	Hiroshi Hashimoto	1382-TC-378	9394

110 7590 03/31/2003

DANN DORFMAN HERRELL & SKILLMAN  
SUITE 720  
1601 MARKET STREET  
PHILADELPHIA, PA 19103-2307

EXAMINER

STEFANON, JUSTIN

ART UNIT	PAPER NUMBER
----------	--------------

3682

DATE MAILED: 03/31/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/044,651

Applicant(s)

HASHIMOTO ET AL.

Examiner

Justin Stefanon

Art Unit

3682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4,5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Priority***

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Japan on January 10, 2002. It is noted, however, that applicant has not filed a certified copy of the Japanese application as required by 35 U.S.C. 119(b).

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-3 and 5-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitations "the tip" in line 3, "the inner part" in line 4, and "the center" in line 6. There is insufficient antecedent basis for these limitations in the claim.

Claim 2 recites the limitation "this cylindrical hole" in line 2. The antecedent basis for this limitation is unclear as there are two such holes. Claim 2 further recites "the bottom side" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 3 recites the limitations "the tip" in line 3, "the inner part" in line 4, and "the center" in line 8. There is insufficient antecedent basis for these limitations in the claim.

Claim 5 recites the limitations "the tip" in line 3, "the inner part" in line 4, "the center" in line 7, and "the retainer" in line 8. There is insufficient antecedent basis for these limitations in the claim.

Claim 6 recites the limitation "the cutout end" in line 6. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-5, 7, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by US Pat. No. 5,967,923 to Petri.

Petri discloses a hydraulic tensioner with a metallic cylinder 3 fitted to a cylindrical hole 7 formed in a body 1, a plunger 4 provided within the cylinder, a compression spring 13, and a pressure oil chamber 12 formed between the inner part of the plunger and the cylinder. The cylinder has a bottom plate 6 with a through hole, visible in Figure 1. The bottom plate is engaged by the spring. The cylindrical hole has a smaller hole, visible in Figure 1 below a check valve abutting the bottom plate. The check valve comprises a ball 11, a lid, and a spring supported by the bottom plate via the lid, or retainer, as seen in Figure 1.

In reference to claims 4, 7, and 8, Petri discloses the structure of the claimed invention. Even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. See MPEP § 2113. Petri

Art Unit: 3682

discloses the lid, regardless of its being preliminarily assembled. The cylinder is disclosed as being steel in column 2, lines 17-20.

6. Claims 1 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by US Pat. No. 6,120,402 to Preston et al.

Preston et al. disclose a hydraulic tensioner with a metallic cylinder 20 fitted to a cylindrical hole formed in a body 104, a plunger 2 provided within the cylinder, a compression spring 4, and a pressure oil chamber 22 formed between the inner part of the plunger and the cylinder. The cylinder has a bottom plate with a through hole 24. The bottom plate is engaged by the spring. A ratchet pawl body 12 engages teeth 11 on the outside of the plunger by spring 68 energization, a cutout 15 for rocking the pawl and a pair of protruding pieces 90, 88 are formed on the cylinder, and the pawl is supported by a shaft 86 in mount holes formed in the protruding pieces and a mount hole formed in the body 104.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art includes several tensioners with plungers mounted within cylinders in the tensioner body, the plunger and cylinder defining a pressure oil chamber and having a ball check valve.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin Stefanon whose telephone number is 703-305-1945. The examiner can normally be reached on Monday - Thursday 6 - 4:30.

Art Unit: 3682

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Bucci can be reached on 703-308-3668. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

js JS  
March 24, 2003

  
Thomas R. Hannon  
Primary Examiner